

Section 18 - Rental Expense Paid to a Related Organization

1. A provider may lease a facility from a related organization within the meaning of the principles of reimbursement. In such a case, the rent paid to the lessor by the provider is not allowable as a cost, except for providers subject to NDAC chapter 75-04-03 "Developmental Disabilities Loan Program" whose rent payments shall not exceed the actual cost of mortgage payments of principal and interest. The cost of ownership of the facility would, however, be an allowable cost to the provider. Generally, these would be costs such as depreciation, interest on the mortgage, real estate taxes, and other property expenses attributable to the leased facility. The effect is to treat the facility as though it were owned by the provider. Therefore, the owner's equity in the leased assets is includable in the equity capital of the provider.
2. In order to be considered an allowable cost, the home office cost must be directly related to those services performed for individual providers and relate to client services. An appropriate share of indirect costs will also be considered. Documentation as to the time spent, the services provided, the hourly valuation of services and the allocation method used must be available to substantiate the reasonableness of the cost.

Section 19 - Taxes

1. General.
 - a. Taxes assessed against the provider, in accordance with the levying enactments of the several states and lower levels of government and for which the provider is liable for payment, are allowable costs. Tax expense may not include fines, penalties, or those taxes listed in subsection 2.
2. Taxes not allowable as costs. The following taxes are not allowable as costs:
 - a. Federal income and excess profit taxes, including any interest or penalties paid thereon.
 - b. State or local income and excess profit taxes.
 - c. Taxes in connection with financing, refinancing, or refunding operation, such as taxes in the issuance of bonds, property transfers, issuance or transfers of stocks, etc. Generally, these costs are either amortized over the life of the securities or depreciated over the life of the asset. They are not, however, recognized as tax expense.

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- d. Taxes from which exemptions are available to the provider.
- e. Special assessments on land which represent capital improvements, such as sewers, water, and pavements, should be capitalized and may be depreciated.
- f. Taxes on property which is not used in the provision of covered services.

Section 20 - Personal Incidental Funds

- 1. Each client is allowed to retain a specific monthly amount of income for personal needs. These personal needs include such items as clothes, tobacco, or other day-to-day incidentals. This monthly allowance is not to be applied toward the resident's cost of care. Generally, the source of income for personal needs is from social security, veterans benefits, private income, economic assistance, or supplemental security income (SSI).
- 2. Providers managing client funds must maintain a current client account record in a form and manner prescribed by the department. Copies of the client account record must be provided to the client without charge.
- 3. The department may conduct audits of client account records in conjunction with regular field audits.
- 4. Adult client funds may be disbursed with the client's permission in the absence of a guardian or declaration of incompetency.
- 5. The department uses the amount of a resident's income to determine:
 - a. Eligibility for medical assistance benefits.
 - b. Amount of income and other resources which must be applied toward the resident's care.
 - c. Amount of income and other resources which can be retained by the resident.
- 6. The following personal incidental items, supplies, or services furnished as needed or at the request of the resident, may be paid for by the resident from his personal incidental allowance or by outside sources, such as relatives and friends:

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- a. Outside barber and beautician services, if requested by the resident for regular shaves, haircuts, etc.
 - b. (Vacated)
 - c. Drycleaning of personal clothing.
 - d. Recliner chairs, standard easy chairs, radios, television sets, etc., that the resident desires for personal use.
 - e. Vacated
 - f. Personal clothing, including robes, pajamas, and nightgowns, except for clothing at distinct parts of the state institution for the mentally retarded which are certified as intermediate care facilities for the mentally retarded when the ownership of the clothing is retained by the facility or the clothing is included as a part of the individual's plan of care.
 - g. Miscellaneous items, such as tobacco products and accessories, beverages and snacks served at other than mealtime except for supplemental nourishment, television rental for individual use, stationery supplies, postage, pens and pencils, newspapers and periodicals, cable television, and long-distance telephone services. Nonprescription vitamins or combinations of vitamins with minerals may be paid when ordered by the attending physician and the resident, parent, guardian, or responsible relative approves such use of the resident's funds.
7. Charges by the program for items or services furnished clients will be allowed as a charge against the client or outside sources, only if the items or services are not included in the payment rate as routine items and services and separate charges are also recorded by the facility for all clients receiving these items or services directly from the program. All such charges must be for direct, identifiable services or supplies furnished an individual client. A periodic "flat" charge for routine items, such as beverages, cigarettes, etc., will not be allowed. Charges may be made only after services are performed or items are delivered, and charges are not to exceed charges to all classes of clients for similar services.
8. Residents' private property must be clearly marked with his name. The facility must keep a record of private property. If items are lost, the circumstances of disappearance must be documented in the facility's records.
9. If client funds are deposited in a bank, they must be deposited in an account separate and apart from any other bank accounts of the facility. Any interest earned on this account will be credited to the applicable resident's accounts.

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10. Residents' funds on deposit with the facility must be available to residents on their request. No funds may be withdrawn from accounts of residents capable of managing their own funds without their permission.
11. Should a disagreement exist as to whether a resident is capable of managing the resident's own funds, a joint determination will be made by the individual service plan team, parent, guardian, or responsible relative in settling this dispute. The decision must be documented in the provider's records.
12. On discharge, the facility must provide the resident with a final accounting of personal funds, and remit any balance on deposit with the facility.
13. Upon death, the balance of a resident's personal incidental funds along with name and case number, will be maintained in an interest-bearing account for disposition by the resident's estate. Personal property, such as television sets, radios, wheelchairs, and other property of more than nominal value, will be maintained for disposition by the resident's estate.
14. Upon sale or other transfer of ownership interest of a facility, both transferor and transferee must transfer client's personal incidental funds moneys and records in an orderly manner.
15. Failure to properly record the receipt and disposition of personal incidental funds will constitute grounds for suspension of provider payments.
16. Client personal incidental funds must not be expended for the purchases of meals served in licensed day service programs nor may the purchase of such meals be a condition for admission to such programs.

Section 21 - (Vacated)

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Attachment 4.19-D
Sub-section 2

Section 22 - (Vacated)

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Section 24 - Application

This chapter will be applied to providers of services to developmentally disabled persons, except distinct parts of state institutions for the mentally retarded which are certified as intermediate care facilities for the mentally retarded, starting the first day of a facility's first fiscal year which begins on or after July 1, 1985; provided, however, that neither this section, nor the effective date, shall preclude the application and implementation of some or all of the provisions of this chapter through contract or through official statements of department policy. Specific sections of this plan will be applied to services provided in distinct parts of state institutions certified as intermediate care facilities for the mentally retarded. The applicable sections are section 1; subsection 1, 4, 5, 6, and 7 of section 2; subsections 1, 2, and 3 of section 8; sections 9, 10, 11 and 12; subsections 1 through 12, 14 through 23, 25 through 35, 37 through 38, 40 through 44, 47, and 49 through 55 of section 13; and sections 14 through 24.

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APPENDIX A

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APPENDIX A
INTERIM RATE SETTING METHODOLOGY

Providers of services to developmentally disabled individuals must submit a budget, on a form prescribed by the department, to the Developmental Disabilities Division (DDD) sixty days before the beginning of the provider's fiscal year. The provider is to report only allowable budgeted costs and projected occupancy. The interim rate is effective the first day of the provider's fiscal year. Adjustments to the interim rate may be made throughout the fiscal year for significant changes in approved occupancy or services being provided. Changes to the interim rate will be made using the same rate setting methodology described here.

The example shown on A-4 sets forth the interim rate setting methodology and various calculations which enter into the interim rate setting as described below:

Reported Costs

Costs are reported by service category and by line item. Sub-totals for Salaries and Fringe Benefits, Other, Board, Property and Production costs are entered as reported costs.

Adjustments

DDD personnel review the budget submission and make adjustments for costs which cannot be justified either historically or by a change in services.

Total As Adjusted

Reported costs less adjustments are identified by service category.

General Client Allocation

General client costs are allocated to each applicable service category based on 100% of approved capacity for that service to total approved capacity.

Administration Allocation

Administration costs are allocated to each service category based on the total costs of the service category after the general client allocation to total costs of all services, exclusive of production costs.

In-House Day Services

The costs of providing in-house day services to ICF/MR clients are included in the costs of ICF/MR by multiplying the number of days of service which are to be provided to ICF/MR clients times the day service rate which is calculated based on Total Costs for the service divided by census at 100%. This amount is added to ICF/MR costs to arrive at total ICF/MR costs.

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Interim Rate

The interim rate is calculated by dividing Total Costs by 95% of the approved capacity census.

Approved Capacity

Approved capacity is the number of clients that can or will be served by the provider. The approved capacity may not exceed licensed capacity but may be less than licensed capacity.

Census at 100%

Census for each service category is determined by multiplying the approved capacity by 260 for day services and by 365 for residential services.

Census at 95%

Census used to determine the rate is calculated by multiplying the census at 100% times 95%.

General Client Percentage

General client percentage is calculated by dividing census at 100% for each applicable service, excluding Independent Supported Living Arrangement, Supported Living Arrangement, Extended Services, Supported Employment, Room and Board, by total census at 100% for all general client services.

Administration Percentage

Administration percentage is determined by dividing Reported Costs less Adjustments plus General Client Allocation for each service by total costs for all services. Total costs for a non-ICF/MR residential service is determined by adding costs for training, room and board for the service. The administration allocation is then made to the training component for the non-ICF/MR residential service.

In-House Day Service Calculation

Total costs for the day service is divided by 100% of approved census for the day service. The number of ICF/MR day service days is the number of ICF/MR clients to be served times 260. The day service rate times the ICF/MR day service days yields the Total Cost for day services which is added to ICF/MR total costs to establish an all inclusive rate.

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